

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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November 15, 2022

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-10483 Cruz v. Cervantez
USDC No. 5:16-CV-4

The court has granted the motion to supplement the record in this case with the trial transcript. The originating court is requested to provide us with a supplemental electronic record consisting of the documents outlined in the attached motion once the transcript has been filed. Counsel is reminded that any citations to these documents must cite to the supplemental electronic record.

Sincerely,

LYLE W. CAYCE, Clerk

Melissa Mattingly

By: _____
Melissa V. Mattingly, Deputy Clerk
504-310-7719

Mr. Eric Cruz
Mr. Matt Douglas Matzner
Ms. Karen S. Mitchell

No. 22-10483

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

ERIC CRUZ,

Plaintiff – Appellant,

v.

OFFICER DOMINGO CERVANTEZ,

Defendant – Appellee.

*On Appeal from the United States District Court
For the Northern District of Texas,
Lubbock Division, Civil Action No. 5:16-CV-4*

**APPELLEE DOMINGO CERVANTEZ’S
MOTION TO SUPPLEMENT THE
RECORD WITH THE TRIAL TRANSCRIPT**

To the Honorable Justices of the Fifth Circuit Court of Appeals:

COMES NOW Appellee Domingo Cervantez and files his Motion to Supplement the Record with the Trial Transcript, and in support in support thereof would show the Court as follows:

I.

Appellant Eric Cruz filed his appellate brief on October 19, 2022. In ¶¶ 18 and 19 of his brief Appellant Cruz makes arguments concerning evidentiary issues that occurred during trial. In ¶ 23 of his brief he also references a statement made by the trial judge at the conclusion of the case. Furthermore, in ¶ 25 of his brief he makes arguments concerning Appellee Cervantez not being entitled to qualified immunity based upon evidence presented to the jury.

Appellant Cruz did not request that the trial transcript be prepared. However, in light of arguments raised in Appellant Cruz's brief, Appellee Cervantez believes that having the trial transcript as part of the appellate record is now necessary to address several of the arguments raised by Appellant Cruz. Therefore, this motion is being filed so that the appellate record may be supplemented with the trial transcript once it is prepared. The transcript will be requested this week and it is anticipated that it will take approximately 14 days for it to be prepared.

WHEREFORE, PREMISES CONSIDERED, Appellee Domingo Cervantez respectfully requests that this Court grant this motion.

Respectfully submitted,

/s/ Matt D. Matzner

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Counsel for Appellee Domingo Cervantez

CERTIFICATE OF CONFERENCE

Appellant Eric Cruz is incarcerated. Therefore, the undersigned counsel is unable to confer with him quickly concerning this motion. The Court should presume that it is opposed.

/s/ Matt D. Matzner

Of Counsel

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing was on this 15th day of November, 2022, served as follows:

VIA U.S. REGULAR MAIL

Eric Cruz #2059509
TDCJ Wainwright Unit
2665 Prison Rd. 1
Lovelady, Texas 75851
Pro se Plaintiff

/s/ Matt D. Matzner

Of Counsel